

WILLIAM C. MAXEY.

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JANUARY 31, 1910.—Ordered to be printed.

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Mr. PRINCE, from the Committee on Claims, submitted the following

ADVERSE REPORT.

[To accompany H. R. 15728.]

The Committee on Claims, to whom was referred the bill (H. R. 15728) directing the Secretary of the Treasury to pay William C. Maxey the pay and allowance of a captain of infantry from July 1, 1863, to June 10, 1865, recommend that it do not pass.

The records in the War Department show that William C. Maxey was a sergeant in Company E, Eightieth Illinois Infantry, and that he received the pay of such from July 1, 1863, to June 18, 1865. It is true that, in the absence of some of the commissioned officers of the company, he served as commander of the company; it is also true that he received a commission as second lieutenant of said company from Governor Richard J. Oglesby, of Illinois. It does not appear from any records in the War Department that he was ever commissioned by the proper military authorities as a commissioned officer in the United States military service.

The committee has no authority to pay him for an office that he never had, under authority of law.

The accompanying papers are hereto attached and made a part of this report.

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TREASURY DEPARTMENT,  
OFFICE OF THE SECRETARY,  
Washington, January 24, 1910.

SIR: I have the honor to acknowledge the receipt by your reference of a copy of H. R. 15728, Sixty-first Congress, second session, "A bill directing the Secretary of the Treasury to pay to William C. Maxey the pay and allowance of a captain of infantry from July first, eighteen hundred and sixty-three, to June tenth, eighteen hundred and sixty-five," and in reply to transmit herewith copy of a report of the Auditor for the War Department of the 22d instant upon the subject.

Respectfully,

CHARLES D. NORTON,  
*Acting Secretary.*

The CHAIRMAN OF THE COMMITTEE ON CLAIMS,  
*House of Representatives.*

JANUARY 22, 1910.

SIR: In reply to your indorsement of the 17th instant, on the request of Hon. George W. Prince, chairman of Committee on Claims, House of Representatives, inclosing H. R. 15728, herewith returned, for the relief of William C. Maxey, late sergeant Company E, Eightieth Illinois Infantry, I have the honor to inform you that the muster and pay rolls covering the period from July 1, 1863, to June 18, 1865, bear him as first sergeant, but contain nothing to show or indicate that he commanded the company for any portion of that period.

The following-named officers signed the rolls and witnessed the payments made thereon: James Neville, captain, Eightieth Illinois Infantry; John R. Cunningham, lieutenant, same regiment.

It also appears from the rolls that the company at no time during said period contained the minimum number of persons required by the Army Regulations before recognition and payment of a captain.

In view of the above facts, I would be disposed to withhold favorable recommendation of the act for this soldier's relief.

Respectfully,

B. F. HARPER, *Auditor.*

THE SECRETARY OF THE TREASURY.

WAR DEPARTMENT,  
THE ADJUTANT-GENERAL'S OFFICE,  
*Washington, January 13, 1910.*

It is shown by the records that William C. Maxey was enrolled August 5, 1862, at Mount Vernon, Ill., and was mustered into service August 25, 1862, as a sergeant in Company E, Eightieth Illinois Infantry, to serve three years; that he was appointed first sergeant of the company January 1, 1863; and that he was mustered out of service therewith, as a first sergeant, June 10, 1865.

The records showing who was in command of the company mentioned during the period from July 1, 1863, to June 10, 1865, are incomplete, but such records concerning the matter as are on file indicate that William C. Maxey, in the absence of the commissioned officers of the company, served as commander of that company almost continuously from July 19, 1863, until June 10, 1865.

Nothing has been found of record in this office to show whether or not the soldier in question was paid as captain at any time within the period in question, but it seems probable that he was never so paid, because it does not appear that he was ever duly appointed as captain of the organization mentioned; however, definite information concerning the question of payment in the case of the soldier can probably be readily obtained from records of payment on file in the Treasury Department, and it is suggested, therefore, that application for data as to payment be made to the Secretary of the Treasury.

F. C. AINSWORTH,  
*The Adjutant-General.*

THE SECRETARY OF WAR.

[Second indorsement.]

WAR DEPARTMENT,  
*January 14, 1910.*

Respectfully returned to the chairman Committee on Claims, House of Representatives, inviting attention to the foregoing report of the Adjutant-General of the Army.

ROBERT SHAW OLIVER,  
*Assistant Secretary of War.*

THE ADJUTANT-GENERAL.  
(Through chief of staff.)

